

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to home- and community-based services and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.4.

Purpose and Summary

During the 2022 Legislative Session, 2022 Iowa Acts, House File 2578, appropriated funds to increase specific home- and community-based services (HCBS) waiver and HCBS habilitation provider reimbursement rates over the rates in effect June 30, 2022, as follows:

- Increase rates for behavioral health intervention services (BHIS) by 20.6 percent.
- Increase rates for applied behavior analysis (ABA) by 8.9 percent.
- Increase rates for home health agencies providers located in rural areas. These are the providers covered under the low utilization payment adjustment (LUPA) methodology, whose rates may vary depending on type of provider. LUPA is a standard per-visit payment for episodes of care with a low number of visits. Currently, LUPA occurs when there are four or fewer visits during a 60-day episode of care.

As part of the American Rescue Plan Act (ARPA), Section 9817, HCBS implementation plan, the Department has designated \$14.6 million in state funds to increase HCBS waiver and habilitation reimbursement rates by 4.25 percent. The following changes are proposed as a result of the rate changes:

- Increase the reimbursement rates and upper rate limits for providers of HCBS waiver and habilitation services beginning July 1, 2022, by 4.25 percent over the rates that are in effect on June 30, 2022.
- Increase the monthly caps on the total monthly cost of HCBS waiver and habilitation services.
- Increase the monthly cap on HCBS support employment and intellectual disabilities (ID) waiver respite services.
- Increase the annual or lifetime limitations for home and vehicle modifications and specialized medical equipment.

The proposed amendments also correct the following technical errors:

- Remove the individual placement and support supported employment (IPS SE) from the HCBS waiver supported employment and add it under the HCBS habilitation supported employment services. IPS SE is only provided to individuals enrolled in the 1915(i) habilitation program.
- Align the total monthly cap on supported employment services under the HCBS habilitation program with the HCBS waiver employment service monthly cap, as is the current practice.

Fiscal Impact

During the 2022 Legislative Session, House File 2578 appropriated funds to increase home health agency rates for providers operating in rural areas and to increase BHIS and ABA provider rates. As part

of the ARPA, Section 9817, HCBS implementation plan, the Department has designated \$14.6 million in state funds to increase HCBS waiver and habilitation reimbursement rates by 4.25 percent.

Jobs Impact

These proposed amendments raise the rate of reimbursement for rural home health agencies, behavioral health intervention and ABA. These amendments also raise the rate of reimbursement for HCBS waiver and HCBS habilitation service providers. This rate change will directly benefit HCBS members accessing consumer directed attendant care (CDAC) and consumer choices option (CCO) by enabling them to offer an increased wage to potential employees, which may increase the recruitment and retention rates of CDAC workers and CCO employees. This increase could assist HCBS providers with recruitment and retention efforts, which may provide improved quality of services for HCBS members. These amendments may have a positive influence on private-sector jobs and employment opportunities in Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 3, 2023. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 6735C**, IAB 12/14/22). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.